HEALTH AND SAFETY CODE

Chapter 3. HOSPITAL SURVEY AND CONSTRUCTION

Article 2. ADMINISTRATION

. 129460. Advisory health council; duties; transfer of functions of advisory hospital council and health planning council

The California Health Policy and Data Advisory Commission shall advise and consult with the department in carrying out the administration of this chapter and succeeds to and is vested with the functions, authority and responsibility of the Advisory Hospital Council and the Health Planning Council.

Any reference in any code to the Advisory Hospital Council or to the Health Planning Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

(Added by Stats. 1971, c. 1593, p. 3249, ¸ 99, operative July 1, 1973.)

Part 1.75 SMALL AND RURAL HOSPITALS

Chapter 4.5 SMALL AND RURAL HOSPITALS

Article 1 GENERAL PROVISIONS

. 124840. "Small and rural hospital" defined

"Small and rural hospital" means an acute care hospital which meets either of the following criteria:

(a) Meets the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(b) Meets the criteria for designation within peer group five or seven and has no more than 76 acute care beds and is located in an incorporated place or census designated place of 15,000 or less population according to the 1980 federal census.

(Added by Stats. 1987, c. 1476, ¸ 1.)

Chapter 1 CLINICS

Article 1 DEFINITIONS AND GENERAL PROVISIONS

. 1200. Clinic; primary care clinic; specialty clinic

As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided

at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics.

(Added by Stats. 1978, c. 1147, 4, eff. Sept. 26, 1978. Amended by Stats. 1980, c. 133, p. 308, 1; Stats. 1980, c. 1316, p. 4563, 1; Stats. 1982, c. 859, p. 3207, 1; Stats. 1985, c. 700, 1.)

1204. Clinic[s] eligible for licensure, primary care clinics and specialty clinics; classes as defined

Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) Only the following defined classes of primary care clinics shall be eligible for licensure:

(1) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended,[1] or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(2) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the

[1] 26 U.S.C.A. 501(c)(3)

effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less that 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

(Added by Stats. 1978, c. 1147, 4, eff. Sept. 26, 1978. Amended by Stats. 1980, c. 133, p. 308, 2; Stats. 1982, c. 1306, p. 4813, 2, eff. Sept. 23, 1982; Stats. 1985, c. 700, 3; Stats. 1992, c. 457, 1.)

1206. Exemptions

This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officer, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.[1]

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code,[2] and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of
the practice of that healing art.

(h) A clinic which is operated by a primary care community or free clinic and which is operated on separate premises from the licensed clinic and is only open for limited services of no more than 20 hours a week. An intermittent clinic as described in this paragraph shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center as defined in Section 5601.5 of the Welfare and Institutions Code.

(Added by Stats. 1978, c. 1147, 4, eff. Sept. 26, 1978. Amended by Stats. 1979, c. 478, p. 1634, 2, eff. Sept. 5, 1979; Stats. 1980, c. 133, p. 310, 3; Stats. 1980, c. 454, p. 962, 1.5; Stats. 1980, c. 1316, p. 4565, 2.5; Stats. 1982, c. 1306, p. 4814, 3; Stats. 1984, c. 1716, 1; Stats. 1985, c. 700, 4; Stats. 1989, c. 977, 1.)

[1] 42 U.S.C.A. 21 1395 et seq. 1396 et seq.
[2] 25 U.S.C.A. 21 450, 1601.

Chapter 2 HEALTH FACILITIES

Article 1 GENERAL

1250. Health Facility

As used in this chapter, "health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

A "general acute care hospital" includes a "rural general acute care hospital". However, a "rural general acute care hospital" shall not be required by the department to

provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental, services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled-nursing" means a facility with a capacity of four to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve

medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i)(1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than six beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, physically disabled persons, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A "life-threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A catastrophically and severely disabled person means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a catastrophically disabled person shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4)(A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons may have not more than 25 beds for the purpose of serving terminally ill persons.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving catastrophically and severely disabled persons.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j)(1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the California Department of Corrections from obtaining a correctional treatment center license at these sites.

(6) This subdivision shall remain operative only until January 1, 1997.

(k) "Nursing facility" means a facility that is certified to participate as a provider of care in the federal medicaid program under Title XIX of the federal Social Security Act and is licensed as either of the following:

(1) Skilled nursing facility.

(2) Intermediate care facility.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections, or the Department of the Youth Authority, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(Added by Stats. 1973, c. 1202, p. 2564, 2. Amended by Stats. 1974, c. 1444, p. 3151, 1; Stats. 1976, c. 854, p. 1950, 34, eff. Sept. 9, 1976; Stats. 1978, c. 1221, 1, eff. Sept. 27, 1978; Stats. 1978, c. 1226, 1.5; Stats. 1980, c. 676, p. 1937, 152; Stats. 1980, c. 569, p. 1558, 1; Stats. 1981, c. 714, p. 2675, 213; Stats. 1981, c. 743, p. 2908, 3; Stats. 1983, c. 695, 1, eff. Sept. 11, 1983; Stats. 1983, c. 1003, 1; Stats. 1984, c. 497, 2, effective July 17, 1984; Stats. 1985, c. 1496, 4; Stats. 1986, c. 1111, 1; Stats. 1986, c. 1320, 1; Stats. 1986, c. 1459, 1.5; Stats. 1987, c. 1282, 2; Stats. 1988, c. 1478, 3, eff. Sept. 28, 1988; Stats. 1988, c. 1608, 1.3; Stats. 1989, c. 1393, 1, eff. Oct. 2, 1989; Stats. 1990, c. 1227 (A.B. 3413), 1, eff. Sept. 24, 1990; Stats. 1990, c. 1329 (S.B. 1524), 3.5, eff. Sept. 26, 1990; Stats. 1992, c. 697 (S.B. 1559), 11; Stats. 1992, c. 1163 (S.B. 1570), 1; Stats. 1992, c. 1164 (S.B. 1003), 1; Stats. 1992, c. 1369 (A.B. 3027), 5, eff. Oct. 27, 1992, operative Jan. 1, 1993; Stats. 1993, c. 589 (A.B. 2211), 84; Stats. 1993, c. 70 (S.B. 86), 7, eff. June 30, 1993; Stats. 1993, c. 930 (S.B. 560), 1; Stats. 1993, c. 931 (A.B. 972), 1; Stats. 1993, c. 932 (S.B. 910), 1, eff. Oct. 8, 1993; Stats. 1993, c. 932 (S.B. 910), 1.7, eff. Oct. 8, 1993, operative Jan. 1, 1994.)

1250.8. Single consolidated general acute care hospital license; criteria; location of supplemental service and category of beds; requirements; transfer approval and regulations; facility; Medi-Cal program; report; application of amendments; authorized actions; facilities located more than 15 miles from health facility

(a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more that 15 miles apart. The director may issue a single consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:

(A) Either (i) one or more physical plants are located in a rural area, as defined by regulations of the director; or (ii) the physical plants are located beyond 15 miles from the general acute care hospital which obtains the single consolidated license and provide outpatient services as defined by the department, and do not provide inpatient services.

(B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.

(C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.

(D) The physical plants satisfy the criteria of subdivision (a) and paragraphs (1), (2), and (3).

(E) The physical plants of the licensee operate in full compliance with subdivision (f) of Section 1275.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transfer or facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985-86 Regular Session of the California Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985-86 Regular Session of the California Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to any facility, or any service provided in any facility, which is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code) of any facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to any facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

(Added by Stats. 1983, c. 1003, 2. Amended by Stats. 1984, c. 1516, 2, eff. Sept. 28, 1984, operative Jan. 1, 1985; Stats. 1986, c. 1318, 1; Stats. 1991, c. 728 (A.B. 1885), 1.)

1251.5. Special permit

A "special permit" is a permit issued in addition to a license, authorizing a health facility to offer one or more of the special services specified in Section 1255 when the state department has determined that the health facility has met the standards for quality of care established by state department pursuant to Article 3 (commencing with Section 1275).

(Added by Stats. 1973, c. 1202, p. 2565, 2.)

Chapter 3 CALIFORNIA COMMUNITY CARE FACILITIES ACT

Article 1 GENERAL PROVISIONS

1500. Short title

This chapter shall be known and may be cited as the California Community Care Facilities Act.

(Added by Stats. 1973, c. 1203, p. 2581, 4.)

1502. Definitions

As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

(Added by Stats. 1973, c. 1203, p. 2582, 4. Amended by Stats. 1976, c. 1350, p. 6159, 1; Stats. 1977, c. 1252, 257, operative July 1, 1978; Stats. 1977, c. 1199, 5; Stats. 1978, c. 288, 1; Stats. 1978, c. 429, 134.55, eff. July 17, 1978, operative July 1, 1978; Stats. 1978, c. 891, 1, eff. Sept. 19, 1978; Stats. 1982, c. 1124, p. 4051, 1; Stats. 1983, c. 1015, 2; Stats. 1984, c. 1309, 1; Stats. 1984, c. 1615, 1.5; Stats. 1985, c. 1127, 1; Stats. 1985, c. 1473, 2; Stats. 1986, c 248, 116; Stats. 1986, c. 1120, 2, eff. Sept. 24, 1986; Stats. 1987, c. 1022, 2.5; Stats. 1988, c. 160, 89; Stats. 1988, c. 557, 2; Stats. 1988, c. 1142, 3, eff. Sept. 22, 1988, Stats. 1988, c. 1142, 3.5, eff. Sept. 22, 1988, operative Jan. 1, 1989; Stats. 1989, c. 1360, 82; Stats, 1990, c. 1139 (S.B. 2039), 1. eff. Sept. 21, 1990; Stats. 1991, c. 1137 (A.B. 760), 1; Stats. 1991, c. 1200 (S.B. 90), 1. eff. Oct. 14, 1991; Stats 1991, c. 1200 (S.B. 90), 1.5, eff. Oct. 14, 1991, operative Jan. 1, 1992; Stats. 1992, c. 1374 (A.B. 14), 1. eff. Oct. 28, 1992; Stats. 1993, c. 248 (S.B. 465), 1, eff. Aug. 2, 1993; Stats. 1993, c. 1245 (S.B. 282), 2, eff. Oct. 11, 1993.)

Chapter 3.3 CALIFORNIA ADULT DAY HEALTH CARE ACT

Article 1 GENERAL DEFINITIONS

1570.7. Definitions

As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or

maintaining optimal capacity for self-care. Provided on an short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term health care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility which provides adult day health care.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other persons who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individualized plan of care" means a plan designed to provide recipients of adult health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day health center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(f) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. The procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(g) "Planning council" or "council" means an adult day health care planning council established pursuant to Section 1572.5.

(h) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services, that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(i) "State review committee" or "committee" means the Long-Term Care Committee established pursuant to Section 1572.

(j) "Department" or "state department" means the Department of Aging or the State Department of Health Services as specified in the interagency agreement between the two departments.

(Added by Stats. 1977, c. 1066, 1, Amended by Stats. 1990, c. 1351 (S.B.2429), 2, eff. Sept. 26, 1990; Stats. 1991, c. 985 (S.B. 681), 2.)

Article 2 ADMINISTRATION

1572. Transfer of functions and duties; interagency agreement; long-term care committee

To the extent provided for under Section 9316 of the Welfare and Institutions Code, the functions and duties of the state department provided for under this chapter shall be performed by the Department of Aging commencing on the date the functions are transferred from the Department of Health Services to the Department of Aging. These functions shall be transferred when the Department of Aging develops an implementation plan clearly defining the authority, functions, and responsibility of the Department of Aging, and signs an interagency agreement with the state department to specify how the departments shall work together in areas of mutual concern.

The Health and Welfare Agency shall develop a plan by July 1, 1988, for streamlining the certification and licensing process for adult day health care.

The interagency agreement shall specify that the Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. The interagency agreement shall also specify that as of January 1, 1988, the State Department of Health Services shall delegate to the Department of Aging the responsibility of performing the financial and cost report audits and the resolution of audit appeals which are necessary to ensure program integrity. As provided for in Section 19994.10 (renumbered as Section 19050.9) of the Government Code, the personnel resources and funding, equivalent to one personnel year used to perform the audit responsibilities shall be transferred to the Department of Aging. This agreement shall also include provisions whereby the state department and the Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

To the extent necessary for implementation of Section 9316 of the Welfare and Institutions Code, as used in this chapter, "director" shall refer to the Director of the Department of Aging and "state department" shall refer to the Department of Aging. A Long-Term Care Committee is hereby established in the Department of Aging. The committee shall include, but not be limited to, a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the Association for Adult Day Care Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, nonprofit representatives and professionals with expertise in Alzheimer's disease or a disease of a related disorder, a member of the California Coalition of Independent Living centers, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State

Department of Mental Health, the State Department of Developmental Services and the State Department of Rehabilitation, as deemed appropriate by the Director of the Department of Aging. At least one member shall be a person over 60 years of age. The committee shall function as an advisory body to the Department of Aging and advise the Director of the Department of Aging regarding development of community-based long-term care programs.

This function shall also include advice to the Director of the Department of Aging for recommendations to the State department of Health Services on licensure, Medi-Cal reimbursement, and utilization control issues.

The committee shall be responsible for the reviewing of new programs under the jurisdiction of the department.

The committee shall assist the Director of the Department of Aging in the development of procedures and guidelines for new contracts or grants, as well as review and make recommendations on applicants. The committee shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

Additionally, the functions of the committee shall include all of the following:

(a) The committee shall review and make recommendations on guidelines for adoption by the Director of the Department of Aging setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the Director of the Department of Aging concerning individual proposals for startup funds and for original licensure of proposed adult day health care centers. The Director of the Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Health Services. This review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of this review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. A public hearing on each individual proposal for an adult day health care center may be held by the department in conjunction with the local adult day health care council in the county to be served. A hearing shall be held if requested by a local adult

day health care council. In order to provide the greatest public input, the hearing should preferably be held in the service area to be served.

(Added by Stats. 1977, c. 1066, 1. Amended by Stats. 1978, c. 429, 135, eff. July 17, 1978, operative July 1, 1978; Stats. 1982, c. 1490, p. 5767, 2; Stats. 1984,c. 1600, 4, eff. Sept. 30, 1984, operative July 1, 1984; Stats. 1985, c. 1305, 1; Stats. 1987, c. 1015, 1.)

1572.5. Planning Council

(a) The board of supervisors of any county may establish for that county an adult day health care planning council as provided in this section. Alternatively, two or more adjacent counties may agree to form a single adult day health care planning council with jurisdiction in all participating counties. Each council shall be comprised of 17 members appointed by the board of supervisors, or jointly appointed by the boards of supervisors of counties having a single council, as follows:

(1) Nine members of the council shall be persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low-income and racial and ethnic minorities.

(2) A representative of the area agency on aging designated pursuant to Public Law 94-135, or, if none, a county agency responsible for services to senior citizens.

(3) A representative of a county agency responsible for administering health programs for senior citizens.

(4) A representative of the county medical society.

(5) A representative of a publicly funded senior citizen transportation program.

(6) A representative of a health facility or organization of health facilities providing acute or long-term care to the elderly.

(7) A member-at-large who has demonstrated an interest in alternatives to institutional long-term care.

(8) A functionally impaired adult member with a demonstrated interest in community-based, long-term care needs of the functionally impaired who is 18 or over, and under 55 years of age.

(9) A representative of the county department of public social services, or the equivalent agency.

(b) The board of supervisors, with the approval of the Department of Aging, may designate the area agency on aging advisory council as the adult day health care planning council in counties in which all of the following exist:

(1) An adult day health care planning council has not been established.

(2) The board of supervisors governs the area agency on aging.

(3) The area agency on aging has demonstrated interest and commitment in alternative to institutional long-term care.

(4) The area agency on aging advisory council includes representatives of county or community-based agencies which are responsible for administering or providing long-term care services of which have demonstrated an interest in developing long-term care alternatives.

The board of supervisors shall seek the advice and assistance of other health and transportation representatives identified in this section.

(c) If persons meeting the qualifications specified by any paragraph of subdivision (a) are unavailable or unwilling to serve on the council, the appointing power may apply to the director for an exemption. In this case, the director shall grant an exemption and shall specify such alternative qualifications as will best serve the purposes of this chapter with due regard for local conditions.

(Added by Stats. 1977, c. 1066, 1. Amended by Stats. 1982, c. 1490, p. 5768, 3; Stats. 1985, c. 1305, 2; Stats. 1987, c. 482, 1.)

[1] See 42 USCA 3025 for designation of area agencies.

United States Code Annotated

Area agency, grants for state and community programs for aging, see 42 U.S.C.A. 30258 et seq.

Chapter 3.4 CALIFORNIA CHILD DAY CARE ACT

Article 1 GENERAL PROVISIONS AND DEFINITIONS

1596.750. "Child day care facility"

"Child day care facility" means a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers and family day care homes.

(Added by Stats. 1984, c. 1615, 9.)

Chapter 7.5 LICENSING

Article 1 GENERAL PROVISIONS

11834.02. Definitions

(a) As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiter granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

(Formerly 11834.11, added by Stats. 1984, c. 1667, 2. Amended by Stats. 1988, c. 646, 1; Stats. 1989, c. 919, 9; Stats. 1992, c. 620 (A.B. 2460), 3; Stats. 1993, c. 219 (A.B. 1500), 216.1. Renumbered 11834.02 and amended by Stats. 1993, c. 741, 5.)

Division 23 HOSPITAL DISTRICTS

Chapter 2 BOARD OF DIRECTORS

Article 2 POWERS

32127.2. Insurance program; borrowing money or credit or issuing bonds; security interests

Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling

and alteration of existing health facilities, and the initial equipping of any such health facilities under Chapter 4 (commencing with Section 129000) of Part 1 of Division 1, and notwithstanding any provision of this division or any other provision of holding of law, the board of directors of any district may (a) borrow money or credit, or issue bonds, as well as by the financing methods specified in this division, and (b) execute in favor of the state first mortgages, first deeds of trust, and such other necessary security interests as the Office of Statewide Health Planning and Development may reasonably require in respect to a health facility project property as security for such insurance. No payments of principal, interest, insurance premium and inspection fees, and all other costs of state-insured loans obtained under the authorization of this section shall be made from funds derived from the district's power to tax. It is hereby declared that the authorizations for the executing of such mortgages, deeds of trust and other necessary security agreements by the board and for the enforcement of the state's rights thereunder is in the public interest in order to preserve and promote the health, welfare, and safety of the people of this state by providing, without cost to the state, a state insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the rational meeting of the critical need for new, expanded and modernized public health facilities.

(Added by Stats. 1969, c. 970, p. 970, p. 1930, 2. Amended by Stats. 1971, c. 1593, p. 3306, 295, operative July 1, 1973.) Stats. 1977, c. 1252, p. 4431, 344, operative July 1, 1978, Stats. 1978, c. 429, p. 1412, 154, eff. July 17, 1978, operative July 1, 1978; Stats. 1982, c. 1513, p. 5869, 9.)